

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

KARL TIPPLE

Plaintiff,

v.

KROGER TEXAS, L.P.

Defendant.

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CIVIL ACTION No. 4:12-CV-573

JUDGE RON CLARK

JURY QUESTIONS

Discrimination

Question No. 1a

Did Kroger terminate Mr. Tipple's employment?

Answer "yes" or "no": yes

If you answer "yes," proceed to Question No. 1b.

If you answer "no," go to Question No. 2.

Question No. 1b

Was Mr. Tipple's disability, if any, a motivating factor in Kroger's decision to terminate his employment?

Answer "yes" or "no": yes

If "yes," go to Question No. 1c.

If "no," proceed to Question No. 2a.

Question No. 1c

Has Kroger proven that it would have made the same decision to terminate Mr. Tipple even if it had not considered his disability?

Answer "yes" or "no": yes

Proceed to Question No. 2a.

Question No. 2a

Did Kroger constructively discharge Mr. Tipple?

Answer "yes" or "no": yes

If you answer "yes," proceed to Question No. 2b.

If you answer "no," go to Question No. 3.

Question No. 2b

Was Mr. Tipple's disability, if any, a motivating factor in Kroger's constructive discharge of Mr. Tipple.

Answer "yes" or "no": yes

If you answer "yes," go to Question No. 2c.

If you answer "no," go to Question No.3.

Question No. 2c

Has Kroger proven that it would have made the same decision to transfer Mr. Tipple, ~~the same decision to transfer Mr. Tipple~~ even if it had not considered his disability?

Answer "yes" or "no": yes

Proceed to Question No. 3.

Harassment

Question No. 3a

Was Mr. Tipple harassed because of his disability, if any?

Answer "yes" or "no": yes

If you answer "yes," proceed to Question No. 3b.

If you answer "no," proceed to Question No. 3c

Question No. 3b

Did Kroger exercise reasonable care to prevent and correct promptly the harassing behavior?

Answer "yes" or "no": NO

~~Proceed to Question No. 4.~~

Question No. 3c

Did Mr. Tipple unreasonably fail to take advantage of any preventive or corrective opportunities provided by Kroger or to avoid harm otherwise?

Answer "yes" or "no": NO

Proceed to Question No. 4

Retaliation

Question No. 4

Did Kroger terminate Mr. Tipple's employment or constructively discharge him, because he reported that he was being discriminated against and/or harassed because of his disability?

Answer "yes" or "no": YES

If you have answered "Yes" to Questions 1b, 2b, 3, or 4 proceed to Question No. 5. Otherwise the Foreperson should date and initial the form in the space provided.

Damages

Question No. 5

What sum of money, if paid now in cash, would fairly and reasonably compensate Mr. Tipple for the damages, if any, you have found Kroger caused him?

Answer in dollars and cents, or "none" for the following items and no other:

a. Emotional pain and suffering, inconvenience, mental anguish, and other non-pecuniary losses

Mr. Tipple suffered in the past: \$ ^{aw} 145,000 (145,000)

b. Emotional pain and suffering, inconvenience, mental anguish, and other non-pecuniary losses

Mr. Tipple is reasonably likely to suffer in the future: \$ 5,000

c. Amount of back pay and wages Mr. Tipple would have earned up to the date of trial if he had not been terminated or constructively discharged: \$ 51,308.00

If you have found any amount of damages in answer to any part of Question No. 5, then answer Question No. 6. Otherwise the Foreperson should date and initial the form.

Question No. 6

Do you find from clear and convincing evidence that Mr. Tipple should be awarded punitive damages against Kroger?

Answer yes or no: yes

If you answer yes, proceed to Question No. 7. Otherwise the Foreperson should date and initial the form.

Question No. 7

What sum, if any, should be assessed against Kroger as punitive damages?

Answer in dollars and cents or "none."

\$ 250,000

09.26.2013

Date

CWSM

Initials of Foreperson